



C A S Q A

California Stormwater Quality Association

P.O. Box 2105, Menlo Park, CA 94026
www.casqa.org
www.cabmphandbooks.com

May 17, 2004

Mr. Frank Roddy
Division of Water Quality
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Subject: Comments Regarding Triennial Review of the California Ocean Plan

Dear Mr. Roddy:

On behalf of the California Stormwater Quality Association (CASQA), thank you for the opportunity to provide comments regarding the State Water Resources Control Board's (State Board) Triennial Review of the California Ocean Plan. CASQA had provided comments on the January 2004 efforts by the State Board to amend the Ocean Plan and many of our comments contained herein reflect our earlier comments. In this letter we provide our overall concern regarding the intent and coverage of the Ocean Plan as well as specific comments regarding the prioritization of issues relevant to the Triennial Review.

General Concern

Our primary concern is that the inclusion of stormwater regulations in the Ocean Plan represents the further piecemeal evolution of a regulatory framework that is not being developed in a comprehensive manner within the State's stormwater program. The need for a clear and cogent policy is paramount since the State Board is trying to address implementation provisions for discharges (including stormwater) to State Water Quality Protection Areas.

The initial Ocean Plan did not originally recognize stormwater runoff from urban areas as a point source discharge. In fact, prior to 1987, State Board staff acknowledged that urban stormwater runoff was considered a form of non-point source pollution. As a case in point in 1974 the State Board in its Draft Final FED noted:

c) Discharge of waste from nonpoint sources, including but not limited to storm water runoff, silt and urban runoff, will be controlled to the extent practicable. In control programs for waste from nonpoint sources, Regional Boards will give high priority to areas tributary to ASBS.

However, the 1987 amendments to the Clean Water Act redefined municipal and industrial storm water discharges as point source discharges, thereby placing a diffuse non-point source of pollution into a point source regulatory framework. Subsequent modifications in the Ocean Plan established prohibitions for point source discharges to ASBSs, but these modifications did not specifically consider the unique economic, technical and social impact of these prohibitions as they apply to urban stormwater runoff.

Overall CASQA believes the State would be better served through the development of a comprehensive and consistent statewide policy for the management of urban stormwater runoff whether discharged to inland surface waters, enclosed bays and estuaries, or the ocean.

At this time, the Ocean Plan should not be applied to stormwater discharges for the same reason that the State Implementation Plan for toxic pollutants (SIP) does not apply to stormwater discharges – because it would be a further step in the piecemeal development of policy that is in need of clarity.

Since the State Board is currently initiating efforts to address stormwater management and achieving water quality standards through a statewide policy, the Ocean Plan should recognize, as does the SIP, that stormwater discharges are not currently addressed specifically within the Ocean Plan but that they will be addressed within a statewide policy. Until such time that the statewide policy is established, the Ocean Plan should hold in reserve a section that addresses stormwater discharges.

Specific Comments re. Prioritization of Ocean Plan Issues

Issue: Changes in bacteria indicator (Issue #1 in the December 2003 Informational Document and Issue C.3.a of the 1999-2002 Triennial Review Workplan)

CASQA recommends inclusion of this issue for proposed amendments to the Ocean Plan. It is important that the Ocean Plan be consistent with AB 411. However, we recommend that the State forego the adoption of total coliform or fecal coliform standards and retain EPA's suggested use of enterococci as the indicator organisms. Although the earlier amendment by Board staff was consistent with AB 411 it differs from EPA's suggested use of only *E. coli* and/or enterococci as indicator organisms (see, EPA's November 2003 draft guidance, *Implementation Guidance for Ambient Water Quality Criteria for Bacteria*).

Issue: Revisions of the List of Beneficial Uses (Issue C.2.a of the 1999-2002 Triennial Review Workplan)

CASQA supports the need to provide consistency between the Ocean Plan and Regional Basin Plans. Furthermore CASQA recommends that the State Board develop a tiered system of beneficial use categories and sub-categories, which may provide flexibility in addressing stormwater discharges especially as it relates to bacteria objectives. Because of the potential expense associated with complying with the bacteria water quality objectives contained in the Ocean Plan and the uncertainty of practical application of indicators to stormwater, the Ocean Plan must consider the costs of compliance and the actions to be taken by each entity, public and private, to achieve compliance. This is especially true for stormwater discharges where the nature and quantity of discharge varies considerably. CASQA suggests that the State consider evaluating a range of beneficial use alternatives for establishing bacteria water quality standards in addition to the primary recreational use standard (REC-1) using EPA's draft guidance such as:

- Seasonal recreational uses – apply REC-1 only during specific times of the year or season
- Exceptions for high flows – reflects the reality of limited recreational contact during high flow conditions
- Wildlife impacted conditions – recognizes conditions where wildlife contributes significant portion of bacterial contamination

Issue: Site Specific Water Quality Objectives (Issue D.3.f of the 1999-2002 Triennial Review Workplan)

Although technical issues surrounding the development of the site-specific water quality objectives (WQOs) for an ocean environment may exist, CASQA supports in concept the flexibility to develop site-specific WQOs. The State Implementation Plan for toxic pollutants includes special provisions for the conditions under which a site-specific objective (SSO) may be considered and the requirements for SSO development. A similar provision should be provided in the Ocean Plan.

Likewise CASQA recommends that the Ocean Plan provide for the development and implementation of special studies in support of SSOs to assess the impacts from variable point source discharges. Such studies should be designed to include consideration of the nature of the discharge (e.g., highly variable flows versus consistent flows) and be performed over a time frame to reflect the water quality objective averaging period and tidal influences.

Issue: Regional Ambient Water Quality Monitoring (Issue C4.a of the 1999-2002 Triennial Review Workplan)

Again CASQA supports in concept regional ambient water quality monitoring efforts as many of our members participate in various regional monitoring programs (e.g., SCCWRP and SFEI). However, we question whether the Ocean Plan is the appropriate vehicle for addressing this issue. Regional monitoring agreements arranged by the RWQCBs or dischargers seem best suited for generating the necessary data. The need to augment and modify these monitoring efforts more regularly than currently available in the Ocean Plan supports the position of keeping this issue addressed at the regional level and not at the State Ocean Plan level.

Issue: Regulatory Control of Stormwater Discharges (Issue #3 of the December 2003 Informational Document and Issue C.4.f of the 1999-2002 Triennial Review Workplan)

As noted in our General Concern, CASQA recommends development of a statewide policy regarding regulatory control of stormwater including stormwater discharges to the ocean. While on the one hand we appreciate the difficulty of the State Board efforts to address the requirements of the Public Resources Code, we believe the State would be better served developing a statewide policy outside the Ocean Plan. Notwithstanding this comment and consistent with our 1/30/04 comments, CASQA believes the State is obligated to conduct the analysis required in Porter-Cologne sections 13241 and 13242 for the application of the Ocean Plan to stormwater discharges as currently being defined as a point source discharge.

Thank you again for the request to provide comments. Please feel free to contact me at 530-753-6400 if you have any questions.

Yours truly,



Karen Ashby
Chair, California Stormwater Quality Association

cc: CASQA Board of Directors
CASQA Executive Program Committee